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WASHINGTON, DC 20007-5201

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of
John N. Vergne
Application No. 09/773,524
Filed: February 2, 2001
Attorney Docket No. 216224.00043

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed by May 11, 2007.

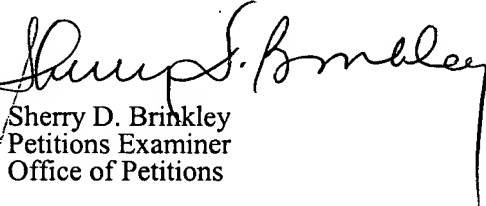
The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Missing Parts (Notice) mailed March 13, 2001. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on October 23, 2003. On September 18, 2006, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 23, 2007. In response, on May 11, 2007, the present petition was filed. Since a terminal disclaimer fee (\$65) is not necessary for a utility application filed after June 8, 1995 and no further petition fee (\$750) is required for the renewed petition, the fees paid therefor on May 11, 2007 are being refunded in the form of a credit of \$815 to counsel's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration and the \$65 surcharge; (2) the petition fee of 750; and (3) an adequate statement of unintentional delay.¹

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed May 11, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See *Changes to Patent Practice and Procedure*, 62 *Fed. Reg.*, at 53160 and 53178; 1203 *Off. Gaz. Pat. Office*, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: 08/09/07		2 Serial/Patent # 09773524		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
1	Filing			\$
.	Amendment			\$
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	Notice of Appeal/Appeal			\$
X	Petition	7	05/11/07	\$ 750.00
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X	Cert of Correction/Terminal Disc.	7	05/11/07	\$ 65.00
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X	No Fee Due (Explanation):			
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11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: Sherry D. Brinkley		TITLE: Petitions Examiner		
SIGNATURE: <i>Sherry D. Brinkley</i>		PHONE: 2-3204		
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